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ALEXANDER L. STEVAS,
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No. 80-1342

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

No. 80-1342

EDNA K. BASSETT AND PAUL EDWARD ESSLING, ETC.,

Petitioners

v.

UNITED STATES OF AMERICA

REPLY OF PETITIONERS TO BRIEF OF UNITED STATES

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1. As To The "Statement"

At page 2, L 8-12, the government brief writer comments on an alleged holding of the Appeals Court. It is our view that such comment is deliberately inaccurate. The question here is of the "jurisdiction" of the Court of Appeals. We decline to comment upon the other errors of that court.

2. As To The "Argument"

At page 2 last line - page 3, L 1-2, the government brief announces the proposition that - "the fundamental purpose of condemnation proceedings . . . is to enable the government to

determine the price of property before deciding to buy it." What a wretched thought. Like the "Magna Charta", Clause 4 of Amendment 5, the actual basis for condemnation proceedings, has its purpose in the protection of the citizen. It is a restraint, a deterrent, a control, a check, and a discipline upon the power of government. It requires payment of "just compensation" which is measured in terms of "fair market value" and not by a price pleasing to the condemnor![1]

3. Without Unreasonable Burden On The Landowners

This pronouncement in the government brief is just plain bunk. In the context of these cases it is an absurdity. The government taking of these lands has been in process for the past eleven years. This is the fifth year of litigation. The original parties are dead. The widow Bassett and the Edward Essling granchildren are unimpressed by the pretense of governmental concern about unreasonable burdens.

The requirement of finality is to be

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[1] The Department of Interior via its land acquisition expert publicly announced in the Voyageur Area that the intention was to acquire lands at 30¢ on the dollar.

given a practical construction, Gillespie v. U. S. Steel Co., 379 US 148, 85 S Ct. 308. The government wants another go at a jury trial to see if it wants these properties. Enough is Enough and such vacillation after eleven years cannot be tolerated. If it does not want the land it should have petitioned the District Court under 71A(i) to abandon. If it wanted these lands, it should have deposited the funds awarded. In either case, there would have been a final decision. If the government is given another trial to make up its mind on acquisition we are not in "danger of denying justice by delay", Gillespie, supra, we have denied it,period. The landowners property will not have been "taken without due process of law", 5th Amendment Cl. 3, it will have been taken by too much process.

It is submitted that the appeal taken below to the 8th Circuit Court of Appeals was not from a "final decision".

Dated: April 14, 1981.

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